

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1287-02
Bill No.: SCS for HB 471
Subject: Crimes and Punishment; Drugs and Controlled Substances
Type: Original
Date: April 30, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds*	(Unknown)	(Unknown)	(Unknown)

* Expected to exceed \$100,000 in any given fiscal year.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services, Office of State Courts Administrator**, and the **Office of the State Public Defender** assume the proposed legislation would have no fiscal impact on their agencies.

In response to a similar proposal (HB 209), officials from the **Department of Health** assume the proposal would not fiscally impact their agency.

Officials from the **Department of Corrections (DOC)** assume drug trafficking (first and second degree) accounted for 162 offenders incarcerated in CY2000. In the same time period, there were 317 admissions to probation. Drug testing done by the DOC picks up MDMA in the amphetamine positives. Upon confirmation, it can then be determined if the positive reading is from methamphetamine, ecstasy, etc. Perhaps statistics from drug tests from another source at the time of arrest could provide counts with which to estimate the potential fiscal impact of this proposal. It is not possible under current Missouri Charge Codes to know how many admissions could have been for the ecstasy drug picked up under amphetamine testing in past arrests and subsequent convictions.

The specific quantities and penalties outlined in this proposal for trafficking ecstasy could prove to increase arrests and convictions and subsequently the resulting fiscal impact for the DOC through costs related to incarcerations and supervision. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY99 average of \$35.61 per inmate, per day) or through supervision provided by the board of Probation and Parole (FY99 average of \$2.47 per offender, per day). An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

In response to a similar proposal (HB 209), the DOC could not predict the number of new commitments which could result from the provisions of this proposal regarding controlled substances. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY99 average \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (FY99 average \$2.47 per offender, per day). Supervision by the DOC through probation or incarceration would result in some additional costs, but DOC officials assume that the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

The following factors contribute to the DOC's minimal assumption:

BLG:LR:OD (12/00)

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders;
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence; and
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

Due to the wide variance of crimes and punishments, including newly created crimes and punishments, the fiscal impact as it relates to the DOC is unknown per year. If long-range fiscal impact would prove to be an amount in excess of that which could be absorbed by DOC, any costs profiled in this fiscal note would be requested through normal budgetary request procedures for the time periods affected by passage of this proposal

The DOC does not anticipate the need for additional capital improvements at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

Oversight assumes, based on the average incarceration cost per inmate, if eight persons are incarcerated, the unknown cost to DOC will exceed \$100,000.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Costs - Department of Corrections</u>			
Incarceration/Probation costs*	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

* Expected to exceed \$100,000 in any given fiscal year.

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposed legislation would add gamma hydroxybutyric acid (GHB) to the Schedule I list of controlled substances. GHB contained in a drug product approved by federal law and ketamine would be added to Schedule III. Currently, ketamine is a Schedule IV controlled substance. The proposal would require that certain professionals may only use individuals authorized by statute to dispense controlled substances; currently, a nurse or graduate physician under the professional's direction and supervision may dispense such substances.

The proposal would also add distribution or manufacture of more than 30 grams of any material containing any amount of the substance 3,4-methylenedioxymethamphetamine (commonly known as "ecstasy") to the crime of trafficking drugs in the first degree. If the quantity is more than 30 grams but less than 90 grams, the penalty is a Class A felony. If the quantity is 90 grams or more, or more than 30 grams within 2000 feet of public housing or within a motor vehicle or hotel, the penalty is a Class A felony without probation or parole.

The act also provides that possession of more than 30 grams of any material containing any amount of the substance 3,4-methylenedioxymethamphetamine constitutes trafficking in the second degree. If the quantity is more than 30 grams but less than 90 grams, the penalty is a Class B felony; possession of 90 grams or more but less than 450 grams is a Class A felony; and possession of 450 grams or more is a Class A felony without probation or parole.

The act adds gamma butyrolactone and 1,4 butanediol to the list of substances for which retailers are required to report sales. Proper identification to purchase the substances need not contain a photograph or the motor vehicle license number, but must list the intended use for the substance. The reporting requirements are revised to require retailers to keep records and inventories in compliance with federal law as well as Department of Health regulations. The Department may inspect the establishment of any registrant.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Department of Health

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA
Director

April 30, 2001